

Senate File 2374 - Introduced

SENATE FILE 2374

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SSB 3234)

A BILL FOR

1 An Act relating to the policy administration of the tax
2 and related laws by the department of revenue, including
3 administration of income taxes, sales and use taxes, motor
4 fuel taxes, property taxes, and inheritance taxes, providing
5 for taxpayer information exchanges with the department of
6 workforce development, making penalties applicable, and
7 including effective date and applicability provisions.
8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

WITHHOLDING TAX CREDITS

Section 1. WITHHOLDING CREDIT PROGRAM REPORT AND PLAN.

1. It is the intent of the general assembly that the withholding credit provisions of the industrial new jobs training program in chapter 260E, the accelerated career education program in chapter 260G, and the targeted jobs withholding credit program in section 403.19A be implemented and administered in an accurate and transparent way.

2. The department of revenue shall, in conjunction with the community colleges, the pilot project cities, and the department of economic development, engage in a comprehensive review and evaluation of the programs described in subsection 1.

3. After conducting the review and evaluation under subsection 2, the department of revenue, in conjunction with the community colleges, the pilot project cities, and the department of economic development, shall develop a plan under which the withholding credits provided for in the programs described in subsection 1 are remitted first to the department of revenue and then transferred to the community colleges and pilot project cities only after the proper amount of such credits has been verified by the department of revenue. The plan shall provide for implementation of changes to the programs as of July 1, 2011.

4. The department of revenue shall submit a report containing the results of the program review conducted under subsection 2 and the plan developed under subsection 3 to the governor and the general assembly by December 15, 2010.

DIVISION II

PROPERTY TAXES

Sec. 2. Section 427B.4, Code 2009, is amended to read as follows:

427B.4 Application for exemption by property owner.

1. a. An application shall be filed for each project

1 resulting in actual value added for which an exemption is
 2 claimed. The first application for exemption shall be filed
 3 by the owner of the property with the ~~local assessor~~ governing
 4 body of the city or county in which the property is located by
 5 February 1 of the assessment year in which the value added is
 6 first assessed for taxation for which the exemption is first
 7 claimed, but not later than the year in which all improvements
 8 included in the project are first assessed for taxation, or the
 9 following two assessment years.

10 b. Applications for exemption shall be made on forms
 11 prescribed by the director of revenue and shall contain
 12 information pertaining to the nature of the improvement, its
 13 cost, the estimated or actual date of completion, whether
 14 the exemption schedule described in section 427B.3 or an
 15 alternate schedule adopted pursuant to section 427B.1 will be
 16 elected, and any other information deemed necessary by the
 17 director of revenue.

18 2. a. A person may submit a proposal to the city council
 19 of the city or the board of supervisors of a county to receive
 20 prior approval for eligibility for a tax exemption on new
 21 construction. The city council or the board of supervisors, by
 22 ordinance, may give its prior approval of a tax exemption for
 23 new construction if the new construction is in conformance with
 24 the zoning plans for the city or county. The prior approval
 25 shall also be subject to the hearing requirements of section
 26 427B.1.

27 b. Prior approval received under this subsection does not
 28 entitle the owner to exemption from taxation until the new
 29 construction has been completed and found to be qualified real
 30 estate. However, if the tax exemption for new construction is
 31 not approved, the person may submit an amended proposal to the
 32 city council or board of supervisors to approve or reject.

33 DIVISION III

34 IDENTIFICATION OF WORKER MISCLASSIFICATION

35 Sec. 3. Section 421.17, Code 2009, is amended by adding the

1 following new subsection:

2 NEW SUBSECTION. 31. If the director has reason to believe,
3 as a result of an investigation or audit, that a taxpayer may
4 have misclassified workers, then to assist the department of
5 workforce development, the director is authorized to provide
6 to the department of workforce development the following
7 confidential information with respect to such a taxpayer:

8 a. Withholding and payroll tax information.

9 b. The taxpayer's identity, including taxpayer
10 identification number and date of birth.

11 c. The results or most recent status of the audit or
12 investigation.

13 Sec. 4. Section 422.20, subsection 3, paragraph a, Code
14 2009, is amended to read as follows:

15 a. Unless otherwise expressly permitted by section 8A.504,
16 section 96.11, subsection 6, section 421.17, subsections 22,
17 23, and 26, and 31, sections 252B.9, 321.120, 421.19, 421.28,
18 422.72, and 452A.63, and this section, a tax return, return
19 information, or investigative or audit information shall not
20 be divulged to any person or entity, other than the taxpayer,
21 the department, or internal revenue service for use in a matter
22 unrelated to tax administration.

23 Sec. 5. Section 422.72, subsection 3, paragraph a, Code
24 2009, is amended to read as follows:

25 a. Unless otherwise expressly permitted by section 8A.504,
26 section 96.11, subsection 6, section 421.17, subsections 22,
27 23, and 26, and 31, sections 252B.9, 321.120, 421.19, 421.28,
28 422.20, and 452A.63, and this section, a tax return, return
29 information, or investigative or audit information shall not
30 be divulged to any person or entity, other than the taxpayer,
31 the department, or internal revenue service for use in a matter
32 unrelated to tax administration.

33 Sec. 6. **EFFECTIVE UPON ENACTMENT.** This division of this
34 Act, being deemed of immediate importance, takes effect upon
35 enactment.

DIVISION IV

FALSE CLAIMS FOR CREDIT

Sec. 7. Section 421.27, subsection 6, Code 2009, is amended to read as follows:

6. *Improper receipt of refund or credit.* A person who makes an erroneous application for refund or credit shall be liable for any overpayment received or tax liability reduced plus interest at the rate in effect under section 421.7. In addition, a person who willfully makes a false or frivolous application for refund or credit with intent to evade tax or with intent to receive a refund or credit to which the person is not entitled is guilty of a fraudulent practice and is liable for a penalty equal to seventy-five percent of the refund or credit being claimed. ~~Repayments~~ Payments, penalties, and interest due under this subsection may be collected and enforced in the same manner as the tax imposed.

DIVISION V

REFUND INTEREST ACCRUAL

Sec. 8. Section 421.60, subsection 2, paragraph e, Code 2009, is amended to read as follows:

e. Unless otherwise provided by law, all Iowa taxes which are administered by the department and which result in a refund shall accrue interest at the rate in effect under section 421.7 from the first day of the ~~second~~ third calendar month following the date of payment or the date the return was due to be filed or was filed, whichever is the latest.

Sec. 9. Section 422.16, subsection 9, Code 2009, is amended to read as follows:

9. a. The amount of any overpayment of the individual income tax liability of the employee taxpayer, nonresident, or other person which may result from the withholding and payment of withheld tax by the employer or withholding agent to the department under subsections 1 and 12, as compared to the individual income tax liability of the employee taxpayer, nonresident, or other person properly and correctly determined

1 under the provisions of section 422.4, to and including section
2 422.25, may be credited against any income tax or installment
3 thereof then due the state of Iowa and any balance of one
4 dollar or more shall be refunded to the employee taxpayer,
5 nonresident or other person with interest at the rate in
6 effect under section 421.7 for each month or fraction of a
7 month, the interest to begin to accrue on the first day of the
8 ~~second~~ third calendar month following the date the return was
9 due to be filed or was filed, whichever is the later date.

10 b. Amounts of less than one dollar shall be refunded to
11 the taxpayer, nonresident, or other person only upon written
12 application, in accordance with section 422.73, and only if
13 the application is filed within twelve months after the due
14 date of the return. Refunds in the amount of one dollar
15 or more provided for by this subsection shall be paid by
16 the treasurer of state by warrants drawn by the director of
17 the department of administrative services, or an authorized
18 employee of the department, and the taxpayer's return of
19 income shall constitute a claim for refund for this purpose,
20 except in respect to amounts of less than one dollar. There
21 is appropriated, out of any funds in the state treasury not
22 otherwise appropriated, a sum sufficient to carry out the
23 provisions of this subsection.

24 Sec. 10. Section 422.25, subsection 3, Code 2009, is amended
25 to read as follows:

26 3. If the amount of the tax as determined by the department
27 is less than the amount paid, the excess shall be refunded with
28 interest, the interest to begin to accrue on the first day of
29 the ~~second~~ third calendar month following the date of payment
30 or the date the return was due to be filed, or the extended due
31 date by which the return was due to be filed if ninety percent
32 of the tax was paid by the original due date, or was filed,
33 whichever is the latest, at the rate in effect under section
34 421.7 counting each fraction of a month as an entire month
35 under the rules prescribed by the director. If an overpayment

1 of tax results from a net operating loss or net capital loss
2 which is carried back to a prior year, the overpayment, for
3 purposes of computing interest on refunds, shall be considered
4 as having been made on the date a claim for refund or amended
5 return carrying back the net operating loss or net capital
6 loss is filed with the department or on the first day of the
7 ~~second~~ third calendar month following the date of the actual
8 payment of the tax, whichever is later. However, when the net
9 operating loss or net capital loss carryback to a prior year
10 eliminates or reduces an underpayment of tax due for an earlier
11 year, the full amount of the underpayment of tax shall bear
12 interest at the rate in effect under section 421.7 for each
13 month counting each fraction of a month as an entire month from
14 the due date of the tax for the earlier year to the last day of
15 the taxable year in which the net operating loss or net capital
16 loss occurred.

17 Sec. 11. Section 422.28, Code 2009, is amended to read as
18 follows:

19 **422.28 Revision of tax.**

20 A taxpayer may appeal to the director for revision of
21 the tax, interest, or penalties assessed at any time within
22 sixty days from the date of the notice of the assessment of
23 tax, additional tax, interest, or penalties. The director
24 shall grant a hearing and if, upon the hearing, the director
25 determines that the tax, interest, or penalties are excessive
26 or incorrect, the director shall revise them according to
27 the law and the facts and adjust the computation of the tax,
28 interest, or penalties accordingly. The director shall notify
29 the taxpayer by mail of the result of the hearing and shall
30 refund to the taxpayer the amount, if any, paid in excess
31 of the tax, interest, or penalties found by the director to
32 be due, with interest ~~after sixty days~~ accruing from the
33 date first day of the third calendar month following the
34 date of payment by the taxpayer at the rate in effect under
35 section 421.7 for each month or a fraction of a month.

1 Sec. 12. Section 422.91, Code 2009, is amended to read as
2 follows:

3 **422.91 Credit for estimated tax — accrual of interest.**

4 1. a. Any amount of estimated tax paid is a credit against
5 the amount of tax due on a final, completed return, and any
6 overpayment of five dollars or more shall be refunded to the
7 taxpayer with interest, the interest to begin to accrue on the
8 first day of the ~~second~~ third calendar month following the date
9 of payment or the date the return was due to be filed or was
10 filed, whichever is the latest, at the rate established under
11 section 421.7, and the return constitutes a claim for refund
12 for this purpose.

13 b. Amounts of less than five dollars shall be refunded to
14 the taxpayer only upon written application in accordance with
15 section 422.73, and only if the application is filed within
16 twelve months after the due date for the return.

17 2. In lieu of claiming a refund, the taxpayer may elect
18 to have the overpayment shown on its final, completed return
19 for the taxable year credited to the tax liability for the
20 following taxable year.

21 Sec. 13. Section 423.3, subsection 47A, paragraph c, Code
22 Supplement 2009, is amended to read as follows:

23 c. For sales or rentals occurring on or after July 1, 2006,
24 through June 30, 2012, a refund of the tax paid as provided in
25 paragraph "b", subparagraph (1), (2), (3), (4), (5), or (6),
26 must be applied for, not later than six months after the month
27 in which the sale or rental occurred, in the manner and on the
28 forms provided by the department. Refunds shall only be of the
29 state tax collected. Refunds authorized shall accrue interest
30 at the rate in effect under section 421.7 from the first day of
31 the ~~second~~ third calendar month following the date the refund
32 claim is received by the department.

33 Sec. 14. Section 423.4, subsection 1, paragraph c, Code
34 Supplement 2009, is amended to read as follows:

35 c. Refunds authorized under this subsection shall accrue

1 interest at the rate in effect under section 421.7 from the
2 first day of the ~~second~~ third calendar month following the date
3 the refund claim is received by the department.

4 Sec. 15. Section 423.4, subsection 6, paragraph c, Code
5 Supplement 2009, is amended to read as follows:

6 c. (1) The owner of the collaborative educational facility
7 shall, not more than one year after the final settlement has
8 been made, make application to the department for any refund of
9 the amount of the sales or use tax which shall have been paid
10 upon any goods, wares, or merchandise, or services furnished,
11 the application to be made in the manner and upon forms
12 ~~to be~~ provided by the department, and the department shall
13 ~~forthwith~~ promptly audit the claim and, if approved, issue a
14 warrant to the owner of the collaborative educational facility
15 in the amount of the sales or use tax which has been paid to the
16 state of Iowa under the contract.

17 (2) Refunds authorized under this subsection shall accrue
18 interest at the rate in effect under section 421.7 from the
19 first day of the ~~second~~ third calendar month following the date
20 the refund claim is received by the department.

21 Sec. 16. Section 450.94, subsection 3, Code 2009, is amended
22 to read as follows:

23 3. If the amount paid is greater than the correct tax,
24 penalty, and interest due, the department shall refund the
25 excess with interest. Interest shall be computed at the rate
26 in effect under section 421.7, under the rules prescribed by
27 the director counting each fraction of a month as an entire
28 month and the interest shall begin to accrue on the first
29 day of the ~~second~~ third calendar month following the date
30 of payment or on the date the return was due to be filed or
31 was filed, whichever is the latest. However, the director
32 shall not allow a claim for refund or credit that has not been
33 filed with the department within three years after the tax
34 payment upon which a refund or credit is claimed became due,
35 or one year after the tax payment was made, whichever time is

1 later. A determination by the department of the amount of
2 tax, penalty, and interest due, or the amount of refund for
3 excess tax paid, is final unless the person aggrieved by the
4 determination appeals to the director for a revision of the
5 determination within sixty days from the date of the notice
6 of determination of tax, penalty, and interest due or refund
7 owing or unless the taxpayer contests the determination by
8 paying the tax, interest, and penalty and timely filing a claim
9 for refund. The director shall grant a hearing, and upon the
10 hearing the director shall determine the correct tax, penalty,
11 and interest or refund due, and notify the appellant of the
12 decision by mail. The decision of the director is final unless
13 the appellant seeks judicial review of the director's decision
14 under section 450.59 within sixty days after the date of the
15 notice of the director's decision.

16 Sec. 17. Section 452A.65, Code 2009, is amended to read as
17 follows:

18 **452A.65 Failure to promptly pay fuel taxes — refunds —**
19 **interest and penalties — successor liability.**

20 1. In addition to the tax or additional tax, the taxpayer
21 shall pay a penalty as provided in section 421.27. The
22 taxpayer shall also pay interest on the tax or additional
23 tax at the rate in effect under section 421.7 counting each
24 fraction of a month as an entire month, computed from the
25 date the return was required to be filed. If the amount of
26 the tax as determined by the appropriate state agency is
27 less than the amount paid, the excess shall be refunded with
28 interest, the interest to begin to accrue on the first day of
29 the ~~second~~ third calendar month following the date of payment
30 or the date the return was due to be filed or was filed,
31 whichever is the latest, at the rate in effect under section
32 421.7 counting each fraction of a month as an entire month
33 under the rules prescribed by the appropriate state agency.
34 Claims for refund filed under sections 452A.17 and 452A.21
35 shall accrue interest beginning with the first day of the

1 in conjunction with the community colleges, the pilot project
2 cities, and the department of economic development, to engage
3 in a review of certain withholding credit programs. After
4 conducting the review, the department is required to develop
5 a plan under which the withholding credits are remitted first
6 to the department before being transferred to the community
7 colleges or the pilot project cities under the various
8 withholding credit programs. The department must submit a
9 report containing the results of the review and the plan to the
10 general assembly and the governor by December 15, 2010.

11 Division II amends Code section 427B.4 to extend by two years
12 the period for claiming the industrial real estate or cattle
13 facilities property tax exemptions. Currently, a taxpayer
14 cannot claim one of these exemptions unless it is claimed in
15 the first year the property is eligible for the exemption.

16 Division III allows the department to share certain taxpayer
17 information with the department of workforce development for
18 purposes of assisting in the identification of misclassified
19 workers. The division is effective upon enactment.

20 Division IV relates to penalties for the filing of false or
21 frivolous claims for tax credit. Code section 421.27 currently
22 provides a penalty for the filing of false or frivolous refund
23 claims. Division IV extends this penalty to false or frivolous
24 claims for credits as well.

25 Division V relates to the accrual of interest on tax refunds.
26 Currently, there are many references in the Code to the date on
27 which interest begins to accrue on tax refunds. That date is
28 typically the first day of the second calendar month following
29 the date the return was due to be filed. Division V amends all
30 such Code sections to specify that interest begins to accrue on
31 the first day of the third calendar month following the date
32 the return was due to be filed. The division is effective upon
33 enactment and applies to returns due on or after April 30,
34 2010.